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10/743,443

12/19/2003

Jose Luis Moctezuma De La Barrera

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EXAMINER

RAJ, RAJIV J

ART UNIT

PAPER NUMBER

3626

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/743,443	<b>Applicant(s)</b> BARRERA, JOSE LUIS MOCTEZUMA DE LA	
	<b>Examiner</b> RAJIV J. RAJ	<b>Art Unit</b> 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 13 May 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,3,7,10,12,15,16,18,23-25,27,28 and 30-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,7,10,12,15,16,18,23-25,27,28 and 30-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### **Status of Claims**

1. This action is in reply to the application filed on 13 May 2008.
2. Claims 1,3,7,10,12,15,16,18,23-25,27,28 and 30 have been amended.
3. Claims 2,4,17 and 19 have been canceled.
4. Claims 31-34 have been added.
5. Claims 1,3,7,10,12,15,16,18,23-25,27,28 and 30-34 are currently pending and have been examined.

### **Claim Objections**

3. The objection to claims 2 and 17 in the previous rejection, made under 37 CFR 1.75(c), have been withdrawn in light of Applicant canceling claims 2 and 17.

### **Claim Rejections - 35 USC § 103**

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
6. Claims 1,3,7,10,12,15,16,18,23-25,27,28 and 30-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Der Brug (US 5954648) (hereinafter Van Der Brug) in view of Malackowski et

al. (US 2003/0093103 A1) (hereinafter Malackowski) in further view of Iliff (US 2001-0012913 A1) (hereinafter Iliff).

### **Claim 1**

**Van Der Brug as shown, discloses the following limitations:**

- *identifying a component usable in the procedure;* (see at least Van Der Brug Column:1 Lines:23-28 “The position detection system of the known image guided surgery system comprises two cameras which pick-up images of the surgical instrument from different directions. The image guided surgery system includes a data processor for deriving the position in space of the surgical instrument from image signals from both cameras.”)
- *displaying a representation related to the consequent step on a display unit* (see at least Van Der Brug Fig. Items 4,5,8 & related text)

Van Der Brug does not disclose the following limitation, however Malackowski, as shown, does:

- *determining the consequent step within the procedure based on the identity of the component and the particular step* ([see at least Malackowski [0087] “The control console 28, based on the data read from chip 64, configures the system so it will operate in an appropriate manner given the specific characteristics of the specific attached cutting accessory”)

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the limitations of Malackowski to Van Der Brug/Malackowski/Iliff with the motivation to provide a method and system for more accurately showing a surgeon the position of a surgical instrument in a patient being operated on.

Van Der Brug and Malackowski do not disclose the following limitation, however Iliff, as shown, does:

- *identifying a particular step within the multi-step procedure;* (see at least Iliff [0131])

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the feature of Iliff into Van Der Brug/Malackowski with the motivation to provide an improved method and system for assessing, identifying, determining, and executing the appropriate steps for a medical procedure. (see at least Iliff [0013]).

### **Claim 3**

The combination of Van Der Brug/Malackowski/Iliff discloses all the limitations of Claim 1. Van Der Brug further discloses the following limitation:

- *identifying a particular location and wherein the determining step is based on the location, the identity of the component, and the particular step* (see at least Van De Berg Column: 3, line 57 to column 4, line 6 “The image guided surgery system comprises a position detection system which includes a camera unit 1 with one or more cameras 10 and a data processor 2” “The data processor 2 includes a computer 21 which, on the basis of the image signals, computes the position of the surgical instrument relative to the patient 12 who is undergoing a surgical operation”)

#### **Claim 5**

The combination of Van Der Brug/Malackowski/Iliff discloses all the limitations of Claim 1. Van Der Brug further discloses the following limitation:

- *the component is a multipart component capable of self identifying the component's composite parts* (see at least Van De Berg Figure Items:1,3,10 as well as related text)

#### **Claim 6**

The combination of Van Der Brug/Malackowski/Iliff discloses all the limitations of Claim 5. Van Der Brug further discloses the following limitation:

- *the multipart component is a tool with an attached device wherein the tool can identify the attached device* (see at least Van De Berg Figure Items:1,3,10)

#### **Claim 7**

The combination of Van Der Brug/Malackowski/Iliff discloses all the limitations of Claim 5. Van Der Brug further discloses the following limitation:

- *the multipart component is a tool with an attached device wherein the attached device is separately identifiable* (see at least Van De Berg Figure Items:1,3,10)

#### **Claim 8**

The combination of Van Der Brug/Malackowski/Iliff discloses all the limitations of Claim 3. Van Der Brug further discloses the following limitation:

- *the identification of a particular location is done using a navigation system.* (see at least Van De Berg Column:1 Lines:52-58 “a position detection system that can be accurately directed to the operating region. . .” “This object is achieved by an image guided surgery system according to the invention which is characterized in that the position detection system is provided with an indicator system for marking a region for which the position detection system is sensitive”)

**Claim 9**

The combination of Van Der Brug/Malackowski/Iliff discloses all the limitations of Claim 1. Malackowski further discloses the following limitation:

- *configuring the consequent step with a parameter of the component.* (see at least Malackowski [0077] “if the data indicates that the use of the cutting accessory was relatively recent, within, for example, 24 hours, controller 70 interprets this data as indicating that the use was in association with the current surgical procedure. Controller 70 interprets either of these two states as being ones in which use of the cutting accessory can continue normally.”)

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the limitations of Malackowski to Van Der Brug/Malackowski/Iliff with the motivation to provide a method and system for more accurately showing a surgeon the position of a surgical instrument in a patient being operated on.

**Claim 10**

The combination of Van Der Brug/Malackowski/Iliff discloses all the limitations of Claim 1. Malackowski further discloses the following limitation:

- *the consequent step is a warning that the component is inappropriate for the particular step* (see at least Malackowski [0078] “controller 70 reexecutes steps 123, 126 and 128, and, if necessary, step, 124, before reexecuting step continued operation step 128. When continuing operation step 128 is reexecuted, the system 20 has been reconfigured to actuate the handpiece in accordance with the characteristics of the newly attached cutting accessory 24”)

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the limitations of Malackowski to Van Der Brug/Malackowski/Iloff with the motivation to provide a method and system for more accurately showing a surgeon the position of a surgical instrument in a patient being operated on.

**Claim 11**

The combination of Van Der Brug/Malackowski/Iloff discloses all the limitations of Claim 1. Van Der Brug further discloses the following limitation:

- *the consequent step includes controlling a piece of auxiliary apparatus. (see at least Van De Berg Column:4 Lines:44-46 “the surgeon 7 who handles the surgical instrument 11 can see the actual position of the surgical instrument 11 in the operating region on the display device 5”)*

**Claim 12**

The combination of Van Der Brug/Malackowski/Iloff discloses all the limitations of Claim 1. Malackowski further discloses the following limitations:

- *identifying an additional component and (see at least Malackowski [0165] “the control console that reads the accessory and implant identify data may be attached to a local area network to which other equipment both in the operating room and elsewhere in the medical facility are attached.”)*
- *wherein the determination of the consequent step is based on the identity of the component, the identity of the additional component, and the particular step (see at least Malackowski [0087] “The control console 28, based on the data read from chip 64, configures the system so it will operate in an appropriate manner given the specific characteristics of the specific attached cutting accessory”)*

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the limitations of Malackowski to Van Der Brug/Malackowski/Iloff with the motivation to provide a method and system for more accurately showing a surgeon the position of a surgical instrument in a patient being operated on.

**Claim 13**

The combination of Van Der Brug/Malackowski/Iloff discloses all the limitations of Claim 1. Van Der Brug further discloses the following limitation:

- *the additional step of moving to the determined consequent step.* (see at least Van De Berg Column:2 Lines:55-57 “The indicator system is arranged to detect a light source that is placed in the operating region in which the surgical instrument is going to be moved.”)

**Claim 14**

The combination of Van Der Brug/Malackowski/Iloff discloses all the limitations of Claim 1. Van Der Brug further discloses the following limitation:

- *the procedure is a surgical procedure.* (see at least Van De Berg Column:1 Lines:26-30 “The image guided surgery system includes a data processor for deriving the position in space of the surgical instrument from image signals from both cameras. During the operation images that had been collected earlier are being shown to the surgeon.”)

**Claim 15**

The combination of Van Der Brug/Malackowski discloses all the limitations of Claim 1. Malackowski further discloses the following limitations:

- *a database of user preferences and* (see at least Malackowski [0072] “[0072] The system 20 of this invention is initially configured for operation by connecting the handpiece 22 to the control console 28. Controller 70 reads the data in the handpiece NOVRAM 32, stores these data in memory 69 and initially configures the system 20 to operate based on the data contained in the NOVRAM.)
- *wherein the determining step is based on the database, the identity of the component, and the particular step* (see at least Malackowski [0087] “The control console 28, based on the data read from chip 64, configures the system so it will operate in an appropriate manner given the specific characteristics of the specific attached cutting accessory”)

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the limitations of Malackowski to Van Der Brug/Malackowski/Iloff with the motivation to provide a method and



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system for more accurately showing a surgeon the position of a surgical instrument in a patient being operated on.

#### **Claim 16**

**Van Der Brug as shown, discloses the following limitations:**

- *a display unit that displays a representation related to the consequent step on* (see at least Van Der Brug Fig. Items 4,5,8 & related text)

Van Der Brug does not disclose the following limitations, however Malackowski, as shown, does:

- *means for identifying a component usable in the procedure;* ([see at least Malackowski [0045])
- *means for determining the consequent step within the procedure based on the identity of the component and the particular step* ([see at least Malackowski [0087] “The control console 28, based on the data read from chip 64, configures the system so it will operate in an appropriate manner given the specific characteristics of the specific attached cutting accessory”])

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the limitations of Malackowski to Van Der Brug/Malackowski/Iloff with the motivation to provide a method and system for more accurately showing a surgeon the position of a surgical instrument in a patient being operated on.

Van Der Brug and Malackowski do not disclose the following limitation, however Iliff, as shown, does:

- *means for identifying a particular step within the multi-step procedure;* (see at least Iliff [0131])

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the feature of Iliff into Van Der Brug/Malackowski with the motivation to provide an improved method and system for assessing, identifying, determining, and executing the appropriate steps for a medical procedure. (see at least Iliff [0013]).

#### **Claim 18**

The combination of Van Der Brug/Malackowski/Iloff discloses all the limitations of Claim 16. Van Der Brug further discloses the following limitation:

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- *means for identifying a particular location of the component and wherein the third circuit determines the consequent step based on the location, the identity of the component, and the context.* (see at least Van De Berg Column:3&4 Lines:57-60 & 2-6 “The image guided surgery system comprises a position detection system which includes a camera unit 1 with one or more cameras 10 and a data processor 2” “The data processor 2 includes a computer 21 which, on the basis of the image signals, computes the position of the surgical instrument relative to the patient 12 who is undergoing a surgical operation”)

Van Der Brug does not disclose the following limitation, however Iliff, as shown does:

- *wherein the means for determining determines the consequent step based on the location, the identity of the component and particular step* (see at least Iliff [0131])

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the feature of Iliff into Van Der Brug/Malackowski with the motivation to provide an improved method and system for assessing, identifying, determining, and executing the appropriate steps for a medical procedure. (see at least Iliff [0013]).

#### **Claim 20**

The combination of Van Der Brug/Malackowski/Iliff discloses all the limitations of Claim 16. Van Der Brug further discloses the following limitation:

- *the component is a multipart component capable of self identifying the component's composite parts* (see at least Van De Berg Figure Items:1,3,10)

#### **Claim 21**

The combination of Van Der Brug/Malackowski/Iliff discloses all the limitations of Claim 20. Van Der Brug further discloses the following limitation:

- *the multipart component is a tool with an attached device wherein the tool can identify the attached device* (see at least Van De Berg Figure Items:1,3,10)

#### **Claim 22**

The combination of Van Der Brug/Malackowski/Iliff discloses all the limitations of Claim 20. Van Der Brug further discloses the following limitation:

- *the multipart component is a tool with an attached device wherein the attached device separately identifiable* (see at least Van De Berg Figure Items:1,3,10)

**Claim 23**

The combination Van Der Brug/Malackowski/Iloff discloses all the limitations of Claim 18. Van Der Brug further discloses the following limitation:

- *means for identifying a particular location of the component* (see at least Van Der Brug Column:3 Lines:57-65 Column:4 Lines:1-4)
- *component is incorporated within a navigation system.* (see at least Van De Berg Column:1 Lines:52-58 “a position detection system that can be accurately directed to the operating region. . .” “This object is achieved by an image guided surgery system according to the invention which is characterized in that the position detection system is provided with an indicator system for marking a region for which the position detection system is sensitive”)

**Claim 24**

The combination of Van Der Brug/Malackowski/Iloff discloses all the limitations of Claim 16. Malackowski further discloses the following limitation:

- *means for configuring the consequent step with a parameter of the component.* (see at least Malackowski [0077] “if the data indicates that the use of the cutting accessory was relatively recent, within, for example, 24 hours, controller 70 interprets this data as indicating that the use was in association with the current surgical procedure. Controller 70 interprets either of these two states as being ones in which use of the cutting accessory can continue normally.”)

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the limitations of Malackowski to Van Der Brug/Malackowski/Iloff with the motivation to provide a method and system for more accurately showing a surgeon the position of a surgical instrument in a patient being operated on.

**Claim 25**

The combination of Van Der Brug/Malackowski/Iloff discloses all the limitations of Claim 16. Malackowski further discloses the following limitation:

- *the consequent step is a warning that the component is inappropriate for the particular step* (see at least Malackowski [0078] “controller 70 reexecutes steps 123, 126 and 128, and, if necessary, step, 124, before reexecuting step continued operation step 128. When continuing operation step 128 is reexecuted, the system 20 has been reconfigured to actuate the handpiece in accordance with the characteristics of the newly attached cutting accessory 24”)

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the limitations of Malackowski to Van Der Brug/Malackowski/Iloff with the motivation to provide a method and system for more accurately showing a surgeon the position of a surgical instrument in a patient being operated on.

#### **Claim 26**

The combination of Van Der Brug/Malackowski/Iloff discloses all the limitations of Claim 16. Van Der Brug further discloses the following limitation:

- *the consequent step includes controlling a piece of auxiliary apparatus.* (see at least Van De Berg Column:4 Lines:44-46 “the surgeon 7 who handles the surgical instrument 11 can see the actual position of the surgical instrument 11 in the operating region on the display device 5”)

#### **Claim 27**

The combination of Van Der Brug/Malackowski/Iloff discloses all the limitations of Claim 16. Malackowski further discloses the following limitations:

- *means for identifying an additional component and* (see at least Malackowski [0165] “the control console that reads the accessory and implant identify data may be attached to a local area network to which other equipment both in the operating room and elsewhere in the medical facility are attached.”)
- *means for determining the consequent step based on the identity of the component, the identity of the additional component, and the particular step* (see at least Malackowski [0087] “The control console 28, based on the data read from chip 64, configures the system so it will

operate in an appropriate manner given the specific characteristics of the specific attached cutting accessory”)

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the limitations of Malackowski to Van Der Brug/Malackowski/Iloff with the motivation to provide a method and system for more accurately showing a surgeon the position of a surgical instrument in a patient being operated on.

#### **Claim 28**

The combination of Van Der Brug/Malackowski/Iloff discloses all the limitations of Claim 16. Van Der Brug further discloses the following limitation:

- *means for moving to the determined consequent step* (see at least Van De Berg Column:2 Lines:55-57 “The indicator system is arranged to detect a light source that is placed in the operating region in which the surgical instrument is going to be moved.”)

#### **Claim 29**

The combination of Van Der Brug/Malackowski/Iloff discloses all the limitations of Claim 16. Van Der Brug further discloses the following limitation:

- *the procedure is a surgical procedure.* (see at least Van De Berg Column:1 Lines:26-30 “The image guided surgery system includes a data processor for deriving the position in space of the surgical instrument from image signals from both cameras. During the operation images that had been collected earlier are being shown to the surgeon.”)

#### **Claim 30**

The combination of Van Der Brug/Malackowski/Iloff discloses all the limitations of Claim 16. Malackowski further discloses the following limitations:

- *a database of user preferences and* (see at least Malackowski [0072] “[0072] The system 20 of this invention is initially configured for operation by connecting the handpiece 22 to the control console 28. Controller 70 reads the data in the handpiece NOVRAM 32, stores these data in memory 69 and initially configures the system 20 to operate based on the data contained in the NOVRAM.)

- *means for determining the consequent step based on the database, the identity of the component, and the particular step (see at least Malackowski [0087] “The control console 28, based on the data read from chip 64, configures the system so it will operate in an appropriate manner given the specific characteristics of the specific attached cutting accessory”)*

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the limitations of Malackowski to Van Der Brug/Malackowski/Iloff with the motivation to provide a method and system for more accurately showing a surgeon the position of a surgical instrument in a patient being operated on.

#### **Claim 31**

The combination of Van Der Brug/Malackowski/Iloff discloses all the limitations of Claim 1.

Malackowski further discloses the following limitations:

- *wherein one or more components needed for each step of the multi-step procedure are known (see at least Malackowski [0060] & [0155])*

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the limitations of Malackowski to Van Der Brug/Malackowski/Iloff with the motivation to provide a method and system for more accurately showing a surgeon the position of a surgical instrument in a patient being operated on.

#### **Claim 32**

The combination of Van Der Brug/Malackowski/Iloff discloses all the limitations of Claim 1.

Malackowski further discloses the following limitations:

- *wherein the particular step and the consequent step relate to different representations on a display screen (see at least Malackowski [0157])*

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the limitations of Malackowski to Van Der Brug/Malackowski/Iloff with the motivation to provide a method and system for more accurately showing a surgeon the position of a surgical instrument in a patient being operated on.

**Claim 33**

The combination of Van Der Brug/Malackowski/Iloff discloses all the limitations of Claim 1. Malackowski further discloses the following limitations:

- *determining whether the component is appropriate for a current step, a prior step, or a future step, and if not, wherein the consequent step is a warning that the component is inappropriate for the multi-step procedure* (see at least Malackowski [0134])

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the limitations of Malackowski to Van Der Brug/Malackowski/Iloff with the motivation to provide a method and system for more accurately showing a surgeon the position of a surgical instrument in a patient being operated on.

**Claim 34**

The combination of Van Der Brug/Malackowski/Iloff discloses all the limitations of Claim 13. Iliff further discloses the following limitations:

- *the step of moving to the determined consequent step is performed without direct interaction from a user* (see at least Iliff Abstract & [0131])

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the feature of Iliff into Van Der Brug/Malackowski with the motivation to provide an improved method and system for assessing, identifying, determining, and executing the appropriate steps for a medical procedure. (see at least Iliff [0013]).

**Response to Arguments**

7. Applicant's arguments received on 13 May 2008 have been fully considered but they are not persuasive. Applicants' arguments will be addressed herein below in the order in which they appear in the response filed 13 May 2008.
8. In response to Applicant's argument, it is respectfully submitted that the Examiner has applied original and new prior art to amended & added claims 1,3,7,10,12,15,16,18,23-25,27,28 and 30-34. The

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Examiner notes that the amended & added claims were not in the previously pending claims as such, Applicant's remarks with regard to the applications of the prior art used in the first Non-Final Office Actions to the amended claims are moot in light of the addition of the newly cited prior art references as disclosed above.

### Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of



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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAJIV J. RAJ whose telephone number is (571)270-3930. The examiner can normally be reached on Monday thru Friday 8-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Luke Gilligan can be reached on (571)272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Rajiv J. Raj/, Art Unit 3626

/C Luke Gilligan/

Supervisory Patent Examiner, Art Unit 3626